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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,295	03/22/2002	Michael John Radley Young	217994US3PCT	9250

7590 08/07/2003
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EXAMINER

JAWORSKI, FRANCIS J

ART UNIT	PAPER NUMBER
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3737

DATE MAILED: 08/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N . 10/019,295	Applicant(s) YOUNG ET AL.	
	Examiner Jaworski Francis J.	Art Unit 3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 13-15, 18-19 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Glenn et al (US3958559).. Glenn et al teach a neurosurgical treatment method and implementing means 10 for generating treatment ultrasound, a plano-concave lens 12 bonded directly thereto (col. 3 lines 26-27), to focus the ultrasound at a point F within the tissue, and means 26 (col. 6 lines 8-27) for moving the focal point. The transducer is movable along the focal axis and transverse thereto, either of which is embraced by the claim 14 language "longitudinal", geometry undefined, and either of which means motion with respect to the surface of the patient as shown in Fig. 3. (Claim 15).

3. Claims 13-15, 17-19 and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Fry et al (US4858613) which teaches a tissue treatment method and structure including ultrasound vibratory quartz generator 161 disposed adjacent to (i.e. very nearby) plano-concave aluminum lens 162 and means 99, 100, 107 for moving the focal point 'longitudinally' with respect to the patient surface.

Art Unit:

4. *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glenn et al or Fry et al as applied to claim 13 above, and further in view of Rolt et al (US5501655). which evidences that it would have been well-known to focus plural vibratory generator means 14-19 at a focal point in order to augment the energy delivered to the treatment point focus.

7. Claims 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glenn et al in view of Fry et al.


It would have been obvious in view of the latter to provide a plano-concave lens made of aluminum for Glenn et al's plano-concave lens in order to enhance focussing for therapeutic concentration of energy.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glenn et al or Fry et al as applied to claim 22 above, and further in view of Chapelon et al (US5316000) since col. 5 line 9 teaches that focussed ultrasound vibratory treatment may be extended to treatment of varicose veins.

Art Unit:

9. Any inquiry concerning this communication should be directed to Examiner Francis J.

Jaworski at telephone number 703-308-3061..



Francis J. Jaworski
Primary Examiner

FJJ:fjj

08-05-03